

OCT 12 2011

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Date:

October 12, 2011

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Lakia Tongue, Examiner	USPTO
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George L. Fox	

Message:

Examiner Tongue,

Thank you for agreeing to an interview in connection with US Patent Application No. 10/552,957. During the interview, I would like to discuss the pending § 102 rejections and § 112 new matter rejection. With regard to the § 102 rejections, the non-final Office Action mailed on June 21, 2011, states "the Examiner is of the opinion the claim is drawn to an immunomodulatory product comprising *Bifidobacterium breve* strain I-2219 as is the immunomodulatory product of the prior art." See, e.g., page 7, 2d ¶. I would like to discuss your basis for asserting that the claimed product comprises *Bifidobacterium breve* strain I-2219, despite the fact that the process recited in the claim includes the step of "removal of the *Bifidobacterium* from the aqueous substrate." Regarding the § 112 new matter rejection, I would like to discuss why the recently added limitation "wherein the excluded fraction at the end of the chromatography is characterized by the absence of intact *Bifidobacterium* cells" would not be implicit to one skilled in the art in light of the same removal step.

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